

Remarks/Arguments

Claims 1-35 were pending in this application. Within the Office Action, the Specification and claims 1-27 and 29-35 are objected to; claims 1-9, 12-14, 15-22, 24-27, 28-31, and 32-35 are rejected under 35 U.S.C. § 101; claims 1, 2, 9-11, 13-16, 23, 27-29, 32, and 33 are rejected under 35 U.S.C. § 102(e); and claims 3-8, 12, 17-22, 24-26, 30, 31, 34, and 35 are rejected under 35 U.S.C. § 103(a).

By way of the above amendments, the Specification and claims 1, 2, 4, 9, 11-13, 15, 18, 19, 24, 25, 27-29, 31-33, and 35 have been amended, and claim 36 has been added. Accordingly, claims 1-36 are now pending. In light of the amendments made above and the remarks made below, the Applicants respectfully request reconsideration.

Objections to the Specification

Within the Office Action, it is stated that on pages 2, 3, 4, 7, and 13 of the Specification the term “NetBUI” should be replaced with the term “NetBEUI,” to represent the protocol of NetBIOS Extended User Interface. By way of the above amendments, the term “NetBUI” has been replaced with “NetBEUI” throughout the Specification. Accordingly, the objections to the Specification should be withdrawn.

Objections to the Claims

Within the Office Action, it is stated that in claim 1, the phrase “a second client system” on line 4 has already been defined, and the that second occurrence of “a second client system” should be replaced with “*the* second client system” (italics added). By way of the above amendments, the first occurrence of “a second client system” has been deleted. Accordingly, the objection to claim 1 should be withdrawn.

Within the Office Action, it is stated that the phrase “log data” in claim 11 has already been defined and should be replaced with the phrase “the log data.” This is not true. Claim 11 has only one occurrence of “log data,” and claims 9 and 1, from which claim 11 depends, do not recite “log data” at all. Accordingly, the recitation of the phrase “log data” in claim 11 has proper basis, and the objection to claim 11 should be withdrawn.

Claims 12, 13, 15, 19, 25, 29, 32, 33, and 34 are all objected to for improper antecedent basis. In response to these objections, these claims have all been amended to correct any improper antecedent basis. Accordingly, the objections to these claims should all be withdrawn.

Claims 4, 18, 31, and 35 are all objected to for reciting “NetBUI” instead of “NetBEUI.” In response to this objection, all of these claims have been amended to replace “NetBUI” with “NetBEUI.” Accordingly, the objections to these claims should be withdrawn.

Claim rejections under 35 U.S.C. § 101

Within the Office Action, claims 1-9, 12-22, 24-35 are rejected under 35 U.S.C. § 101 on the grounds that they are directed to non-statutory subject matter. The Applicants respectfully traverse these rejections.

Within the Office Action it is stated: “In order for a claim to be statutory, it must result in a useful, concrete, and tangible result such as displaying to a user, printing, or storing.” It is stated, specifically about the claims in this application, that “[t]he acts of sending, receiving, and monitoring data are not tangible acts, and therefore are nonstatutory.” The Applicants believe that this analysis mischaracterizes (1) when a “tangible act” is even relevant to an analysis of statutory subject matter and (2) what is and is not “tangible.” Under any analysis, sending, receiving, and monitoring are “tangible” acts.

As to the first prong, a “tangible” result is only relevant when “a claimed invention is directed to a practical application of a 35 U.S.C. 101 *judicial exception*” (italics added). M.P.E.P. § 2106(IV)(C)(2) at 2100-11 (Rev. 5, Aug. 2006) In other words, if a claim is directed to an abstract idea, law of nature, or natural phenomenon, then—and only then--must it be determined whether the invention “transforms an article” or “otherwise produces a useful, concrete and tangible result.” *Id.* If an invention is not directed to an abstract idea, law of nature, or natural phenomenon, it is not a judicial exception and thus no determination of a “tangible result” is necessary. Here, claim 1 is directed to client systems that are configured to transmit, receive, and process message packets in a specific way. Claims 28 and 32 are directed to the individual sending and receiving client systems, respectively. And claim 15 is directed to a method of generating, transmitting, receiving, and processing message packets in a specific way. Not one of claims 1, 15, 28, and 32 is directed to an abstract idea, law of nature, or natural phenomenon. No discussion of “tangible results” is even unnecessary to conclude that the claims in this application recite statutory subject matter.

But even if a “tangible result” were required, it can be found in all of the claims. As stated in the M.P.E.P., “The tangible requirement does not necessarily mean that a claim must . . . operate to change articles or materials to a different state or thing.” *Id.* at 2100-12. In other words the requirement does not mean that memory must be changed (such as by changing the

polarity of bits between 0s and 1s for “storing” data) or that pixel values must be changed (such as by turning pixels on or off or changing their color or intensity for “displaying to a user” or “printing” data). These elements are not required for a claim to produce a “tangible” result. The M.P.E.P., in a less-than-helpful statement, merely states that “the opposite meaning of ‘tangible’ is ‘abstract.’” *Id.* Here, there is nothing “abstract” about sending, receiving, and monitoring. These are real-world acts and thus are tangible.

Indeed, in *AT&T Corp. v. Excel Commun. Inc.*, 172 F.3d 1352 (Fed. Cir. 1999), the Federal Circuit found statutory subject matter in claims similar to those here. There, for example, the court found statutory subject matter in the independent claim 1, which recited only two steps: generating a message record and including an indicator in the message record. *Id.* at 1354. The claim did not recite displaying, printing, or storing anything. Just because these elements may be recited in claims found to contain statutory subject matter does not mean that they are required. Any suggestion that these elements are required is contrary to controlling authority.

Claim 1, reciting first and second client systems that are configured to transmit, receive, and process message packets in a specific way, is directed to allowable subject matter, as are its dependent claims 2-9 and 12-14. For similar reasons, claim 15 and its dependent claims 16-22 and 24-27; claim 28 and its dependent claims 29-31; and claim 32 and its dependent claims 33-35 are all directed to allowable subject matter. Accordingly, the rejections of claims 1-9, 12-22, and 24-35 under 35 U.S.C. § 101 are improper and should be withdrawn.

Rejections under 35 U.S.C. § 102(e)

Within the Office Action, claims 1, 2, 9-11, 13-16, 23, 27-29, 32, and 33 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,671,570 (“Schulze”). The Applicants respectfully traverse these rejections.

Schulze is directed to a method of monitoring and assessing the operation of a semiconductor fabrication facility. The method includes “connecting a monitoring and assessment system to a system bus which is connected directly or indirectly to a manufacturing execution system and a plurality of semiconductor fabrication tools.” (Schulze, Abstract) During monitoring, messages are passed between the fabrication tools and the manufacturing execution system and the monitoring and assessment system. Triggers are generated based on the messages. State models are updated for each tool affected by any of the triggers and

transitions within state models are recorded. *Id.* Nowhere, however, does Schulze disclose processing message packets on a receiving client system in an order relative to other message packets based on a priority contained in the message packet, as recited in the claims of the present invention. Nor does Schulze even suggest such an element inasmuch as it discloses merely updating state models.

Claim 1 is directed to a message-passing system. The system includes first and second client systems. The first client system is configured to transmit a message packet containing a priority. The second client system is configured to receive the message packet transmitted from the first client system and process the message packet in an order relative to other message packets based on the priority. Schulze does not disclose processing a message packet in this way. For at least this reason, claim 1 is allowable over Schulze. Accordingly, the rejection of claim 1 should be withdrawn.

The added limitation of processing a message packet in an order relative to other message packets based on a priority (also substantially added to the other independent claims) finds support throughout the Specification, such as at page 18, lines 3-16. Accordingly, this added limitation does not contain new matter.

Claims 2, 9-11, 13, and 14 all depend on claim 1 and accordingly are all also allowable as depending on an allowable base claim. Accordingly, the rejections of claims 2, 9-11, 13, and 14 should be withdrawn.

Claim 11 has been amended to recite that a diagnostics server is configured to map error codes contained in message packets to correction actions or “fixes.” This added limitation finds support in the Specification, such as at page 9, lines 3-7. Accordingly, this added limitation does not contain new matter.

The new claim 36 depends from claim 1 and accordingly is allowable as depending from an allowable base claim. Claim 36 recites the additional limitation that “the second client system comprises a priority queue configured for processing the message packet in the order based on the priority.” This added limitation finds support throughout the Specification, such as at page 18, lines 3-6 and 16. Accordingly, claim 36 does not add any new matter.

Claim 15 is directed to a method of passing a message packet between a first client system and a second client system. The method includes generating the message packet containing a priority on the first client system, transmitting the message packet from the first client system to the second client system, receiving the message packet on the second client system, and processing the message packet on the second client system in an order relative to

other message packets based on the priority. Schulze does not disclose processing a message packet in this way. For at least this reason, claim 15 is allowable over Schulze. Accordingly, the rejection of claim 15 should be withdrawn.

Claims 16, 23, and 27 all depend on claim 15 and accordingly are all also allowable as depending on an allowable base claim. Accordingly, the rejections of claim 16, 23, and 27 should be withdrawn.

Claim 28 is directed to a sending client system configured to generate a message packet containing a priority for determining an order in which the message packet is processed relative to other message packets on a receiving client system and to transmit the message packet to the receiving client system. Schulze does not disclose generating a message packet in this way. For at least this reason, claim 28 is allowable over Schulze. Accordingly, the rejection of claim 28 should be withdrawn.

Claim 29 depends on claim 28 and accordingly is allowable as depending on an allowable base claim. Accordingly, the rejection of claim 29 should be withdrawn.

Claim 32 is directed to a receiving client system configured to receive a message packet containing a priority from a sending client system. The receiving client system is configured to process the message packet in an order relative to other message packets based on the priority. Schulze does not disclose processing a message packet in this way. For at least this reason, claim 32 is allowable over Schulze. Accordingly, the rejection of claim 32 should be withdrawn.

Claim 33 depends on claim 32 and accordingly is allowable as depending on an allowable base claim. Accordingly, the rejection of claim 33 should be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claims 5-7 and 19-21

Within the Office Action, claims 5-7 and 19-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulze in view of U.S. Pub. No. 2002/0064138 ("Saito"). The Applicants respectfully traverse these rejections.

Saito is directed to a remote control system for remotely operating and controlling a host device coupled to multiple semiconductor manufacturing apparatuses. (Saito, Abstract) Saito does not disclose processing a message sent from a first client system to a second client system in an order relative to other message packets based on a priority in the message packet, as recited in

claims 1 and 15. As explained above, Schulze does not disclose this element either. For at least this reason, claims 1 and 15 are allowable over Schulze and Saito, either alone or in combination. Because claims 5-7 depend on claim 1 and claims 19-21 depend on claim 15, claims 5-7 and 19-21 are also allowable as depending on allowable base claims. Accordingly, the rejections of claims 5-7 and 19-21 should be withdrawn.

Claims 3, 4, 17, 18, 30, 31, 34, and 35

Within the Office Action, claims 3, 4, 17, 18, 30, 31, 34, and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulze in view of Ford's "Home Networking with Windows XP" ("Ford"). The Applicants respectfully traverse these rejections.

Ford explains how to use networking tools to "install a network protocol, configure TCP/IP settings, and examine network clients and services." Ford does not disclose generating a message packet with a priority used to determine an order in which the message packet is processed relative to other message packets (e.g., claim 28) or processing a message packet sent from a first client system to a second client system in an order relative to other message packets based on a priority in the message packet (e.g., claims 1, 15, and 32). As explained above, Schulze does not disclose this element either. For at least this reason, claims 1, 15, 28, and 32 are allowable over Schulze and Ford, either alone or in combination. Because claims 3 and 4 depend on claim 1, claims 17 and 18 depend on claim 15, claims 30 and 31 depend on claim 28, and claims 34 and 35 depend on claim 32, claims 3, 4, 17, 18, 30, 31, 34, and 35 are all also allowable as depending on allowable base claims. Accordingly, the rejections of claims 3, 4, 17, 18, 30, 31, 34, and 35 should be withdrawn.

Claims 8 and 22

Within the Office Action, claims 8 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulze in view of Saito as applied to claims 6 and 20, and further in view of "Document Object Model (DOM) Requirements: W3C Working Draft April, 2001." The Applicants respectfully traverse these rejections.

The Dom Requirements contain the "requirements for the Document Object Model, a platform- and language-neutral interface that allows programs and scripts to dynamically access and update content, structure and style of documents." (DOM Requirements, Abstract) The DOM Requirements do not disclose processing a message packet sent from a first client system to a second client system in an order relative to other message packets based on a priority in the

message packet, as recited in claims 1 and 15. As explained above, neither Schulze nor Saito, either alone or in combination, discloses this element either. For at least this reason, claims 1 and 15 are allowable over Schulze, Saito, and DOM Requirements, either alone or in combination. Because claim 8 depends on claim 1 and claim 22 depends on claim 15, claims 8 and 22 are also both allowable as depending on allowable base claims. Accordingly, the rejections of claims 8 and 22 should be withdrawn.

Claims 12 and 24

Within the Office Action, claims 12 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulze in view of U.S. Patent No. 5,592,672 (“Grewal”). The Applicants respectfully traverse these rejections.

Grewal is directed to “a deterministic rule message distribution process for balancing the traffic load among the front end processors from all the independent control processors” at a service control point. (Grewal, Abstract) Grewal does not disclose processing a message packet sent from a first client system to a second client system in an order relative to other message packets based on a priority in the message packet, as recited in claims 1 and 15. As explained above, Schulze does not disclose this element either. For at least this reason, claims 1 and 15 are allowable over Schulze and Grewal, either alone or in combination. Because claim 12 depends on claim 1 and claim 24 depends on claim 15, claims 12 and 24 are also allowable as depending on allowable base claims. Accordingly, the rejections of claims 12 and 24 should be withdrawn.

Claims 25 and 26

Within the Office Action, claims 25 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulze in view of David Wood & Mark Stone, *Programming Internet Email* 74-79 (1st ed., O’Reilly and Associates 1999) (“Wood”). The Applicants respectfully traverse these rejections.

Wood is directed to, among other things, encrypted email messages. Wood does not disclose processing a message sent from a first client system to a second client system in an order relative to other message packets based on a priority in the message packet, as recited in claim 15. As explained above, Schulze does not disclose this element either. For at least this reason, claim 15 is allowable over Schulze and Wood, either alone or in combination. Because claims 25 and 26 depend on claim 15, they too are both allowable as depending on an allowable base claim. Accordingly, the rejections of claims 25 and 26 should be withdrawn.

CONCLUSION

The Applicants believe that claims 1-36 are in condition for allowance, and allowance at an early date would be appreciated. If the Examiner believes that a telephone conference would expedite prosecution of this application, he is encouraged to call the undersigned at (408) 530-9700.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

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By Thomas B. Haverstock
Thomas B. Haverstock
Reg. No.: 32,571
Attorneys for Applicant

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